

# **Minnesota Office of Pipeline Safety**

## **Recommendation**

Add a provision to Minnesota statute 216D (MS 216D) requiring utility operators to: 1) report on-time performance in response to utility locate requests and 2) report utility damages.

## **Background**

MS 216D builds a framework used by utility operators and excavators to ensure safety and to prevent damages. This framework requires excavators to provide notice to Gopher State One Call prior to digging and utility operators to provide markings to show the approximate location of underground facilities.

MNOPS began receiving an increased amount of complaints regarding the timeliness of utility locate responses being provided to job sites in 2017 followed by a telecom company experiencing state-wide issues in 2019. The issue focuses on the amount of excavation tickets, the scope of the excavation tickets, and the utility personnel available to complete the marking of utilities within the required 48 hour turn-around time. Failure to mark utilities on time impacts public safety as well as productivity. MNOPS has cited utility operators 1,274 times for failure to locate underground utilities on time or accurately in response to excavation notifications.

An average of 1,832 utility damages are reported to MNOPS each year. Pipeline and utility damages can lead to injuries, fatalities, property damage and environmental impact. Damages to underground natural gas utilities can often cause a release of natural gas, a greenhouse gas.

Pipeline companies are required to report the information. All other companies report the information on a voluntary basis. Mandatory reporting by all utility companies will allow MNOPS to better view the effectiveness of on-time performance by the utility companies.

This recommendation for enhanced reporting will allow MNOPS and industry stakeholders to better address the adequacy of state statutes. This information will also allow stakeholders to identify areas for increased education, outreach and enforcement as necessary

## **References:**

**[CHAPTER 216D. EXCAVATION NOTICE SYSTEM](#)**

**[MNOPS Reporting Information](#)**



# **Minnesota Office of Pipeline Safety**

## **Recommendation**

Increase the pipeline safety civil penalty amounts in Minnesota Statutes 299F and 299J to reflect current federal pipeline safety provisions noted in Title 49 Code of Federal Regulations Part 190.

## **Background**

Current pipeline safety civil penalty provisions are capped at *“not to exceed \$100,000 for each violation for each day that the violation persists, except that the maximum civil penalty must not exceed \$1,000,000 for any related series of violations.”*

MNOPS has received notice from the Pipeline and Hazardous Materials Safety Administration (PHMSA) in follow up to annual grant audits. PHMSA identified that current Minnesota penalty provisions are not in compliance with current Underground Natural Gas Storage grant guidelines. PHMSA stated that *“Continued failure to correct the above items will result in a loss of grant funding.”* PHMSA has reported this issue in 2019, 2020 and 2021.

A PHMSA evaluation letter provided in follow up to a 2022 audit stated that failure correct civil penalty amounts would result in MNOPS losing its ability to carry out enforcement actions in follow up to violations of Underground Natural Gas Storage regulations. MNOPS would have to defer any non-compliances of regulations to PHMSA to carry out enforcement.

The proposal would aim to automatically adopt federal provisions which prescribe the following:

*“...Civil penalty not to exceed \$257,664 for each violation for each day the violation continues, with a maximum administrative civil penalty not to exceed \$2,257,627 for any related series of violations.”*

Pipeline civil penalties are issued following violations found in pipeline safety inspections or investigations. These penalty amounts are deposited into the general fund.

## **References:**

**[299F.60 PIPELINE VIOLATION; RULES, CIVIL PENALTIES.](#)**

**[299J.16 CIVIL PENALTY; INJUNCTIVE RELIEF.](#)**

**[§ 190.223 Maximum penalties.](#)**

